

FOREWORD

By Senator Barack Obama

Law is the language of power. It is a language that helps resolve conflicts, governs the order of transactions, and distributes the rights to property and power. It is a language that describes the legitimate exercise of force by the state and defines the limits of protest against that force. Law is the language not just of courts and of contracts but of everyday life. It speaks to the constraints and commitments we accept as citizens in a nation under the rule of law.

Because lawyers are trained in the language of law, we have a special responsibility. We are not like other professionals with a skill to sell to the highest bidder. We are not merely technicians implementing faithfully the designs of others. We are often relied on to be participants in the debate over rights and power; we are called on to be stewards of public order, justice, and democracy; we are called on to be architects and catalysts both for making real the American Dream, and for protecting people from abuse around the globe. We are called on for our judgment and counsel, not just our ability to use the language to any advantage.

It is not merely the lawyer's "professional responsibility" to be an agent of the court and to fulfill the ethical duties of fair dealing and honesty. Those duties are important, but lawyers also have an added burden to ensure that those without access to the language of power can still participate and be heard in the ongoing national conversation about what America means today and can mean in the future. It is a conversation about rights, wrongs, resources, and responsibilities. Lawyers help to ensure that this conversation is not one-sided—that the rules of the legal and political game are fair and do not inalterably favor certain groups over others.

There are many arguments for the lawyer's special duty in the service of the public interest. The first is based on pragmatism. Someone has to perform this role and lawyers are often best positioned to help those who need a voice. If such voices are systematically denied legitimate expression, the

system of order loses legitimacy and will eventually collapse or be overthrown. Lawyers have the tools to give expression to those voices. We know how to go to court, seek injunctions and restraining orders, demand disclosure of information, and give meaning to the Constitution's protections of individual rights. We know how to draft binding agreements, structure sustainable institutions, and codify fair procedures that facilitate cooperation and collaboration.

The second argument for the lawyer's special responsibility has to do with the character of law itself. Law is rarely self-executing, and rights must be exercised and defended in order to have meaning. Rights that exist on paper but are never exercised, challenged, or defended are hardly secure as rights at all. A right has meaning because it can be lost or taken away. The system of law requires that there be people willing to help others exercise and defend their rights. For the public conversation to have meaning, people must have not only the right to speak, but also the opportunity to be heard. The lawyer's skills and privileged access make this possible.

Finally, lawyers, who are the beneficiaries of numerous advantages and privileges, have a moral duty to help those who are less fortunate. It is wrong for us to hoard our capacity to be useful or to deny it to those who need it most. That does not mean that we cannot do work for private interests willing to pay for our services. Nor does it mean that we cannot be discerning about those who benefit from our contributions and generosity. But it does mean that all of us with the ability to make a difference by committing ourselves to a public purpose should do so.

Throughout history, lawyers have been called upon in times of change and challenge to help guide America toward its true potential. It was Charles Hamilton Houston who marshaled the law to create the strategy in *Brown v. Board of Education* that ended legalized apartheid and made real the promise of equal justice for all. It was Archibald Cox who knew during the Watergate scandal that if our democracy was to remain one of laws and not of men, telling the President of United States "no" was essential. And more recently, it was Sandra Day O'Connor

who reminded us in *Hamdan v. Rumsfeld* that “a state of war is not a blank check” when it comes to the civil liberties of American citizens.

Today, at the beginning of the 21st century, we face new challenges that call upon lawyers and all leaders to help guide the course of history. We face new security threats and new economic challenges. We must confront growing inequality in income, wealth, and skills, and we face global environmental risks that may be unprecedented in their scope and potential damage. Our constitutional system has been assaulted by an overreaching Executive Branch cloaked in secrecy and hostile to precedent and evidence-based decision-making. Our image and influence abroad has been weakened, and our ability to pass on to future generations a world that is more free, more fair, and more secure is threatened—even as the world most needs America’s vision and leadership.

This is a moment when America needs its lawyers to look outward and ask what they can do to be the catalysts and architects of a better world. This is a moment when America needs its lawyers—and all its citizens—to commit in some meaningful way to public service. Doing any less suggests a poverty of ambition.

Lawyers should help make real the American dream and protect people from abuse and injustice around the globe. We must join with religious leaders and grassroots organizers and business leaders and volunteers across the nation. Whether it means working to overcome health and wealth disparities, or seeking to strengthen communities faced with economic or other challenges; whether it means advocating on behalf of disadvantaged communities, or restoring integrity and trust to public leadership—whatever vision you have to make yourself useful, each of us has a special responsibility to answer the call to public service. The time is now.